

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
FOURTH REGION**

NORTHGATE II ASSOCIATES¹

Employer

and

Case 4–RC–19644

COMMUNICATIONS WORKERS OF
AMERICA, AFL-CIO

Petitioner

DECISION AND DIRECTION OF ELECTION

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended (hereinafter referred to as the Act), a hearing was held before a hearing officer of the National Labor Relations Board, hereinafter referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has designated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding, the undersigned finds:

1. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction herein.
2. The hearing officer's rulings are free from prejudicial error and are hereby affirmed.
3. The labor organization involved claims to represent certain alleged employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain alleged employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The Employer operates a housing development located at 500 North Seventh Street, Camden, New Jersey (herein called Northgate II). The Petitioner seeks to represent a unit

¹ The Employer's name appears as amended at the hearing.

consisting of 13 property attendants² and nine maintenance employees.³ Contrary to the Petitioner, the Employer contends that the property attendants are guards within the meaning of Section 9(b)(3) of the Act and thus must be excluded from the unit.⁴ The Employer would exclude High-Rise Building Superintendent Tyrone Steele from the unit as a supervisor and Minerva Ubarry as an office clerical or manager. Alternatively, the Employer contends that neither Ubarry nor Steele share a community of interest with the maintenance technicians. The parties stipulated that Joseph Sannino, the Director of Physical Plant, is a supervisor under the Act.

Northgate II consists of a high-rise facility and a low-rise facility. About 300 senior citizens and disabled individuals reside in the high-rise building, and about 96 families live in the low-rise facility which includes approximately 50 townhouses. Pauline Thomas is the Property Manager of Northgate II. She is responsible for supervising the overall condition of the development, including the status of the residential units and their maintenance. Director of Physical Plant Sannino is Steele and Ubarry's direct supervisor. Although not held regularly, there are Northgate II management meetings, which are attended by Thomas, Sannino, Rodriguez, Steele, Ubarry, Marie Colon (head of the Northgate II development leasing department), and Sonia Saenz (rental clerk in the leasing department). The purpose of the management meetings is to discuss and establish policies and procedures, including those pertaining to staffing. The record reflects that the last management meeting occurred in November 1998. Thomas testified, without elaboration, that Ubarry's opinion has been solicited at these meetings. At the November 1998 meeting, Steele testified that the attendees discussed a fire that had occurred on the property, how it had been handled, and what issues needed to be addressed in connection with it.

The Employer specifically requires property attendants "[t]o provide professional and courteous security coverage, assistance and attention to the Northgate II Property, its Owners, Management, Staff and Tenant Population." The property attendants are based in the high-rise building, which has a main front entrance with a booth where property attendants sit, and where there is a timeclock used by the maintenance technicians and the property attendants. The booth has a plexiglass window and a small opening. Using a surveillance camera, the property attendant in the booth monitors activity at the back exit of the high-rise building.⁵ According to Thomas, there is no "security force" at Northgate II other than the property attendants. The Employer does not train the property attendants. A prospective property attendant must undergo

² The property attendants are Fred W. Canady, Jacqueline Collazo, Shirley Davis, William Fussell, Tyrone V. Goldsboro, Darryl L. Hall, Connie Harris, David Muns, David Norman, Alexis Resto, Kenneth Richard, Jose Rodriguez and Michael Rodriguez.

³ The maintenance employees sought by the Petitioner are Minerva Ubarry, Tyrone Steele, John V. Denoto, Howard B. Jones, Mado Maldonado, David Minus, Rafael Perez, Jesus Roman, and Jose Williams.

⁴ The Employer also argues that, if the property attendants are not excluded as guards, Michael Rodriguez, a property attendant, is a supervisor under Section 2(11) of the Act.

⁵ There is also a surveillance camera for the front of the building which is attached to the booth.

a drug test, but the Employer does not require a physical examination. Three property attendants work on each of three daily shifts providing 24-hour coverage.

Every visitor to the high-rise is screened by a property attendant and signs a log book maintained by the property attendants. A property attendant issues a pass or badge to a vendor allowed to enter and denies entry to a vendor whose services have not been requested. If a property attendant sees a vendor on the premises who does not have a pass or badge, the property attendant will tell that vendor that he or she must have a pass or badge to be on the property. When a visitor comes to see a resident, the property attendant will call the resident and ask if the visitor may come up. If the phone used to call residents is out of order, and the property attendant knows the visitor, the property attendant may allow the visitor to enter. The property attendants maintain and use a “banned list,” which is a list of people who have been disruptive at Northgate II.⁶ Thomas, as well as the property attendants, can direct unauthorized people to leave the lobby of the high-rise building. Property attendants also deliver mail, such as flyers, to residents and operate the elevator when it fails to work automatically. In running the elevator, property attendants enforce the safety rule that only seven people may be on the elevator at one time.

Property attendants must respond to an “emergency light,” located in the property attendant booth, which tenants activate by pulling a cord. This occurs two or three times per week. Upon seeing the light, the property attendant buzzes the unit. If there is no response, the property attendant goes to the unit and checks on the tenant. If an ambulance is needed, the property attendant calls for one. Once the ambulance arrives, the property attendant goes with medical personnel to get the tenant, sees them out, and records what occurred and to which hospital the tenant is being taken. If the alarm system in the high-rise building goes off, either a property attendant or Steele deactivates the system and checks out the problem.⁷

Two property attendants regularly tour all of Northgate II, while one attendant remains in the booth.⁸ A tour usually takes 20 to 25 minutes. While on tour, property attendants pick up trash, remove snow if necessary, check for unauthorized activity in stairwells or elsewhere on the grounds, and see that doors and gates are locked. Property attendants ensure that unauthorized people, including employees, are not on the grounds. A property attendant does not wear a bullet-proof vest or carry a firearm, night stick, or pepper spray, but does carry a walkie-talkie.

If a property attendant sees an individual violating a Northgate II rule, for example, destroying Northgate II property or fighting with another person, an attendant may use verbal persuasion to try to stop the behavior. In addition or alternatively, an attendant may use his

⁶ Thomas testified that she may decide to add someone to the banned list.

⁷ Property attendant William Fussell testified that the property attendants do not have access to all areas of the high-rise building and, if a low-rise tenant is locked out, a property attendant must notify someone else to get a key.

⁸ There was conflicting testimony about how often the property attendants do a tour. Thomas testified that one tour occurs every two hours, while property attendant David Norman testified that two tours occur each hour.

walkie-talkie to contact the property attendant in the booth and ask him or her to call the police.⁹ The property attendant then meets with the police upon their arrival and directs them to the appropriate place or individuals. Property attendants on a night shift enforce the 10:00 p.m. curfew for children younger than 18 years. Property attendant William Fussell testified that if a property attendant sees a child violating the curfew, he tells the child to go home, follows the child home, perhaps speaks to the child's parents about the violation, and writes an incident report. Pursuant to such a report, the Employer usually sends the tenant a "cease notice" about the behavior. Property attendants prepare and submit to management incident reports, which describe things such as a sudden illness of a resident, a visitor becoming disruptive, a fight between residents, or a child spray-painting walls. On a busy day, a property attendant submits two or three such reports.

Property attendants wear black pants, a white shirt, a black sweater, and a Northgate parka jacket. Each property attendant displays on his or her jacket a photo identification card, identifying him or her as a "property attendant" and a gold badge displaying an eagle and the words "Northgate II." Property attendants earn between \$6.25 and \$12.81 per hour.

Maintenance technicians, who are also uniformed and wear a blue Northgate parka, work only two daytime shifts: 7:00 a.m. to 3:00 p.m. and 8:00 a.m. to 4:00 p.m. They earn between \$8.00 and \$10.50 per hour, and do not have office space. Maintenance technicians have a variety of responsibilities, including repairing or replacing window panes, tiling floors, cleaning apartments, bathrooms and common areas, and painting over graffiti.¹⁰ If a maintenance technician has a performance-related problem, Steele testified, the technician consults either Steele or Gary Grispin, an employee of Carpenters Local 1578, who trained Northgate II maintenance technicians pursuant to a training contract between the Employer and Carpenters Local 1578.¹¹

Tyrone Steele's current title is high-rise building superintendent,¹² but he is assigned to work in both the low and high-rise buildings. Steele is the only maintenance employee with a low-pressure operator license. He checks all of the boilers in the low and high-rise buildings each day, which can take between two and five or six hours each day, depending on whether Steele discovers boiler-related problems. Steele fixes boiler-related problems, fixes or replaces sewer lines, works on water service lines, and takes care of water-backups and refrigerator

⁹ Norman testified that he has no authority to detain someone until the police come and that he may use physical force against a tenant or a visitor only if he must defend himself.

¹⁰ At the end of 1998, maintenance technicians were trained to do some electrical work and "basic plumbing."

¹¹ The parties stipulated that Local 1578 does not represent any employee at the Northgate development and has no interest in doing so.

¹² The parties stipulated that until August 1997 Steele was a supervisor within the meaning of Section 2(11) of the Act. However, beginning in August 1997, the Employer required Steele as part of his customary duties to check the 14 boilers in the low-rise building as well as the two boilers in the high rise building each day.

defrosting. Steele does some regular routine maintenance as well. While Steele trained a new maintenance technician in late 1998 or early 1999, he spends “very little” time working directly with the maintenance technicians because of the time he must spend checking the boilers. Thomas testified that the maintenance technicians report to Steele when they arrive for their shifts.¹³ Steele usually works Monday-Friday from 8:30 a.m. to 6:00 or 6:30 p.m. but carries a beeper and is part of the Employer’s on-call system along with Sannino and Thomas. Steele is salaried and earns \$40,000 per year.

Steele signs off on maintenance technicians’ requests for leave and forwards them for further review without knowing whether the requesting technician has leave time available or not. On at least one occasion, after Steele had “approved” a request, Thomas instructed Steele that he must disapprove it.

Thomas testified that Steele recommended that an employee, Howard Jones, be hired and that Thomas accepted that recommendation. But Steele testified that he was not involved in hiring Jones. Regarding a suspension of several maintenance technicians in December 1998 for punching out before their shifts ended, the record reflects that Thomas informed Steele that the maintenance technicians would be suspended. Steele testified that he “may have sat down” with Thomas and the maintenance technicians, but denied that he was involved in deciding what discipline should be imposed. Steele also testified that Thomas did not solicit his opinion about how to respond to the situation.

Minerva Ubarry’s title is Administrative Assistant.¹⁴ She files, types, and assists Property Manager Thomas with paperwork. Ubarry’s immediate supervisor is Director of Physical Plant Sannino, whose office is next door to Ubarry’s office. Sannino and Ubarry’s offices are in the maintenance area. Ubarry, who does not wear a uniform, works from 9:00 a.m. to 5:00 p.m. in the high-rise building. She spends most of her day in her office, eats lunch away from Northgate II, and does not use the lunch or break room used by maintenance staff. Ubarry is salaried and earns approximately \$28,000 per year.

Ubarry’s responsibilities include generating maintenance work orders by answering the phone and taking residents’ maintenance complaints, performing annual inspections of the units, and preparing purchase orders from requisitions.¹⁵ Sannino also generates work orders. After

¹³ Thomas testified that Steele has his own office, but Steele testified that he merely uses a desk that happens to be in the storage room where maintenance technicians go for supplies. Also, there was conflicting testimony as to whether Steele is responsible for checking maintenance work. Thomas testified that Steele is responsible, but Steele testified that he does not monitor the technicians’ performance. Steele testified that Director of Physical Plant Sannino checks maintenance work. Sannino did not testify at the hearing on the instant petition.

¹⁴ Before August 25, 1997, Ubarry was Administrator in the maintenance department.

¹⁵ According to Thomas, Ubarry also inspects vacant units just before new tenants move in. Regarding the annual inspections, Ubarry testified that she would inspect “for apartment conditions as far as housekeeping habits, and any maintenance areas that need attention as far as repairs,” and that for “housekeeping” reasons, she might need to do a “reinspection.” There was conflicting testimony about

Ubarry produces a work order, she puts it on a table in her office. A maintenance employee then picks it up. Ubarry's computer is the only computer that is equipped to produce a purchase order. Ubarry calls vendors to place maintenance purchase orders. Ubarry testified without contradiction that she does no maintenance work at Northgate II.

Ubarry also files and types documents for Thomas. She files vendor-related documents, prepares notices to tenants, types employment references, and initial workers' compensation reports. In addition, Ubarry has payroll responsibilities. She calculates hours worked by employees from their timecards, checks employees' leave requests to see if they have available leave time, and reports to Sannino or Thomas if a timecard is double-punched but not initialed by Sannino or Thomas.¹⁶ In addition, Ubarry performs research for Thomas. Currently, she is gathering utility cost information from the residents in connection with a planned rent increase, and is collecting data from vendors and preparing a chart about the Year 2000 computer-readiness issue.

The Employer offers all employees the same employment benefits. Maintenance technicians and property attendants are generally hourly employees who punch a timeclock. Steele and Ubarry, however, are salaried and do not punch a time clock.

Section 9(b) of the Act provides in relevant part "[t]hat the Board shall not . . . (3) decide that any unit is appropriate for such purposes if it includes, together with other employees, any individual employed as a guard to enforce against employees and other persons rules to protect the property of the employer or to protect the safety of persons on the employer's premises" The nature of the alleged guard's responsibilities controls this analysis. *Rhode Island Hosp.*, 313 NLRB 343 (1993). Employees are guards under the Act if they regularly patrol the employer's property, respond to calls for emergency assistance, and enforce the employer's rules against employees and non-employees. *Id.* at 346-47. The Board has held that "security dispatchers" who monitor an employer's closed circuit television system and, therefore, "are directly responsible for being alert to any incident, situation, or problem which needs responsive action" are guards. *Id.* at 347. Accord: *MGM Grand Hotel*, 274 NLRB 139, 140 (1985) (operators who monitored building fire and security system are guards because they "monitor and report possible security problems and infractions and possible life-endangering situations"). The fact that alleged guards "may report to supervisors, if present, or notify the police does not detract from their guard status." *A. W. Schlesinger Geriatric Center*, 267 NLRB 1363, 1364 (1983) (employees who made rounds, locked doors and gates, had the authority to try to stop disturbances on the property and to ask unauthorized persons to leave, and who also performed maintenance duties, were guards). Further, one's job title is not dispositive of one's status as a guard. In *PECO Energy*, 322 NLRB 1074 (1997), the Board found that an employee classified as a janitor was a guard under the Act, even though he, unlike the property attendants, did not make rounds of the property. The janitor served as a guard because, from a guard house, he

whether Ubarry ever checks on work done by maintenance technicians. Thomas testified that Ubarry does check, but Ubarry denied that she does.

¹⁶To date, all employees with double-punched cards processed by Ubarry had obtained the requisite approval.

monitored the employer's property through security cameras, operated gates, screened visitors, issued visitors' passes, and reported "infractions." *Id.* at 1083-84.

Based on the foregoing and the record as a whole, I find that the property attendants are guards within the meaning of Section 9(b)(3) of the Act. The property attendants provide security coverage at the Employer's buildings, and it is clear that property attendants enforce rules to protect the Employer's property and to safeguard residents of Northgate II. The property attendants respond to the "emergency light" in their booth, monitor all activity at the front and rear exits of the high-rise building, and screen all visitors. They regularly make rounds of the entire Northgate II complex and ask any unauthorized person, non-employee or employee, to leave the property. Further, they attempt to halt incidents such as fights and vandalism, respond to any disturbances or other incidents they encounter, and submit incident reports. Unlike the doorpersons and elevator operators in *55 Liberty Owners Corp.*, 318 NLRB 308 (1995), relied upon by the Petitioner, the property attendants make rounds, respond to tenants' emergency calls for assistance, and ensure that employees, as well as other people, are not in unauthorized areas. Based on the foregoing, I find that the property attendants are guards within the meaning of Section 9(b)(3) of the Act. Accordingly, I shall exclude them from the unit.¹⁷

With respect to the status of High-Rise Building Superintendent Tyrone Steele and clerical employee Minerva Ubarry, the burden of establishing their supervisory or managerial status rests on the Employer, the party asserting that such status exists. *Northcrest Nursing Home*, 313 NLRB 491, 496 fn. 26 (1993); see *Bennett Indus.*, 313 NLRB 1363 (1994). To be a supervisor, the individual in question must possess one or more of the supervisory indicia set forth in Section 2(11) of the Act. *Providence Alaska Medical Center*, 320 NLRB 717, 725 (1996), *enfd.* 121 F.3d 548, 156 LRRM 2001 (9th Cir. 1997); *The Door*, 297 NLRB 601 (1990). Paper titles or grants of authority are not determinative. *MJ Metal Products*, 325 NLRB No. 22, slip op. at 2 (1997); *North Miami Convalescent Home*, 224 NLRB 1271, 1272 (1976). Supervisors, as defined in the Act, exercise independent judgment in the performance of supervisory functions and act in the interest of the employer. *NLRB v. Health Care & Retirement Corp.*, 511 U.S. 571, 574 (1994). The Board analyzes the facts of each case to distinguish the "exercise of independent judgment" from the "giving of routine instructions" and the "appearance of supervision" from "supervision in fact." *Providence Alaska Medical Center*, *supra*, 320 NLRB at 725. Where the evidence is in conflict, or otherwise inconclusive on particular indicia of supervisory authority, the Board will find that supervisory status has not been established, at least on the basis of those indicia. *Phelps Community Medical Center*, 295 NLRB 486, 490 (1989).

I find that the Employer has not met its burden of establishing that Tyrone Steele is a supervisor within the meaning of Section 2(11) of the Act. Steele does not hire, transfer, suspend, lay off, recall, promote, discharge, reward, or adjust the grievances of employees, or effectively recommend such action. Although Thomas informed Steele that maintenance technicians accused of leaving their shifts early in December 1998 would be suspended, and Steele may have been present when Thomas met with those technicians, Steele neither personally

¹⁷ In view of my finding herein, it is unnecessary to decide the supervisory status of property attendant Michael Rodriguez.

disciplined those employees nor effectively recommended that they be disciplined. Also, while the maintenance technicians report to Steele at the beginning of their shifts, there is no evidence that Steele uses independent judgment to assign or responsibly direct them. Exercising authority in a routine, clerical, or perfunctory manner does not illustrate an individual's supervisory status. *Juniper Indus.*, 311 NLRB 109, 110 (1993), enfd. 819 F.2d 439, 125 LRRM 2566 (4th Cir. 1987). Also, a skilled worker's natural authority and ability to direct less skilled workers does not constitute the exercise of supervisory authority. *Providence Alaska Medical Center*, supra, 320 NLRB at 727. Finally, regarding Steele's approval of sick time or other time off for maintenance technicians, the record shows that he has no authority to approve time off. Without knowing whether or not the employee in question has leave time to take, Steele signs leave forms and forwards them for further review and possible denial. On at least one occasion, after Steele had "approved" leave, Thomas instructed Steele that he must disapprove that leave request. Based on the foregoing, I find the record evidence insufficient to establish that Steele possesses the indicia of supervisory status.

The Employer has also failed to establish that either Steele or Ubarry is a managerial employee. Managerial employees formulate and effectuate management policy and have discretion to perform their jobs independent of the employer's established policies. *S.S. Joachim & Anne Residence*, 314 NLRB 1191, 1194 fn. 6 (1994). Regarding their attendance at management meetings, Steele or Ubarry "play[s] at best an informational or professional advisory role in this regard." *Neighborhood Legal Services*, 236 NLRB 1269, 1273 (1978). The evidence shows that at most Steele and Ubarry participate in the discussions at the meetings. Moreover, there is no evidence that either Steele or Ubarry performs any duty independent of the Employer's policies. Therefore, I find that neither Steele nor Ubarry is a managerial employee.

Finally, I find that Ubarry does not share a community of interest with the maintenance technicians and that she is not a plant clerical. In deciding upon an appropriate bargaining unit, the key question is whether the employees in a petitioned-for unit have a community, or mutuality, of interest. *Overnite Transportation*, 322 NLRB 723, 724 (1996) (citing *NLRB v. Action Automotive*, 469 U.S. 490, 494, 118 LRRM 2577, 2579 (1985)). "[M]utuality of interest in wages, hours, and working conditions is the prime determinant of whether a given group of employees constitutes an appropriate unit. In deciding whether the requisite mutuality exists, the Board looks to such factors as the duties, skills, and working conditions of the employees involved and especially to any existing bargaining history." *Continental Baking*, 99 NLRB 777, 782 (1952). More specific criteria include whether or not some of the employees have had more substantial training or use different skills; have relatively little contact with one another; or receive substantially higher pay. *Scolari's Warehouse Markets*, 319 NLRB 153, 158 (1995). The distinction between office and plant clericals is grounded in community of interest principles. *Container Research Corp.*, 188 NLRB 586 (1971). Mere daily contact between clerical and production personnel does not show community of interest. *Id.* at 587. See *Brown & Root*, 314 NLRB 19 (1994) (where construction and maintenance unit is at issue, warehouse clerk who has insubstantial contact with, and whose duties are very different from, unit employees, does not share community of interest with them); *Dlubak Corp.*, 307 NLRB 1138, 1167-68 (1992), enfd. mem. 5 F.3d 1488, 144 LRRM 2936 (3d Cir. 1993) (salaried glass supervisor who does production work and has various administrative responsibilities does not share community of interest with production and maintenance employees).

The record evidence establishes that Ubarry is an office clerical, not a plant clerical, and does not share a community of interest with the maintenance technicians. Ubarry is a salaried employee and does not punch a time clock, unlike the maintenance technicians. Ubarry spends most of her time in her office, does not wear a uniform, “does not perform production work, and her duties are distinctly different from those of” the maintenance technicians. *Dlubak*, supra, 307 NLRB at 1171. She generates work orders only upon another person’s request or as a result of her unit inspections, merely providing information to the technicians as opposed to truly assisting them in their work. In addition, Ubarry does not have the sole responsibility of producing work orders. Moreover, Ubarry’s title is Administrative Assistant, and she performs many tasks at the Property Manager’s request. She files vendor-related documents, prepares notices to tenants, types employment references, and initial workers’ compensation reports. Ubarry does research projects. Also, Ubarry has various payroll responsibilities, including processing the timecards and checking leave requests. Further, Ubarry’s clerical duties require her to have contact with maintenance technicians only when she receives information that requires her to complete a form, such as a work or a purchase order. While Ubarry performs annual inspections of the units and notices that repairs need to be made, her actions in that regard are “incidental to her primary clerical duties.” *Brown & Root*, supra, 314 NLRB at 25; *Container Research*, supra, 188 NLRB at 587-88 (although materials coordinator closely tracks production and maintenance materials and equipment and spends about 25 percent of her time in the production area, “her principal functions and operations relate to the general office operations,” and she is an office clerical). Based on the above, I find that Ubarry is an office clerical who lacks a community of interest with the maintenance technicians, and I shall exclude her from the unit.

As to Tyrone Steele, while the record shows that some of Steele’s terms and conditions of employment are different from the other maintenance employees and that he performs highly specialized work, he also handles routine maintenance as well as plumbing work. Other maintenance employees have been recently trained to do more complex maintenance work, e.g., basic plumbing and some clerical work. Although clearly more skilled than other maintenance employees, if he is excluded from the unit, Steele would be the only unrepresented maintenance employee. Accordingly, I find that Steele shares a sufficient community of interest with the other maintenance employees to warrant inclusion in the unit. See *Capitol Park Apts.*, 162 NLRB 1381 (1967); *Shoreland Freezers*, 108 NLRB 723 (1954).

Accordingly, I find that the following employees of the Employer constitute a unit appropriate for the purposes of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time maintenance technicians employed by the Employer at its 500 North Seventh Street, Camden, New Jersey housing development, excluding office clericals, professional employees, managers, guards and supervisors as defined in the Act.

DIRECTION OF ELECTION

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the notice of election to be issued subsequently,¹⁸ subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who were employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained their status as such during the eligibility period and their replacements. Those in the military services of the United States may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by

COMMUNICATIONS WORKERS OF AMERICA, AFL-CIO

LIST OF VOTERS

In order to ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses which may be used to communicate with them. *Excelsior Underwear, Inc.*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Company*, 394 U.S. 759 (1969). Accordingly, it is hereby directed that within 7 days of the date of this Decision 3 copies of an election eligibility list, containing the *full* names and addresses of all the eligible voters, shall be filed by the Employer with the undersigned who shall make the list available to all parties to the election. *North Macon Health Care Facility*, 315 NLRB 359, 361 (1994). The list must be clearly legible, and computer-generated lists should be printed in at least 12-point type. In order to be timely filed, such list must be received in the Regional Office, One Independence Mall, 615 Chestnut Street, Seventh Floor, Philadelphia, Pennsylvania 19106, on or before **May 12, 1999**. No extension of time to file this list shall be granted except in extraordinary circumstances, nor shall the filing of a request for review operate to stay the requirement here imposed.

RIGHT TO REQUEST REVIEW

¹⁸Your attention is directed to Section 103.20 of the Board's Rules and Regulations, a copy of which is enclosed. Section 103.20 provides that the Employer must post the Board's official Notice of Election at least three full working days before the election, excluding Saturdays and Sundays and that its failure to do so shall be grounds for setting aside the election whenever proper and timely objections are filed.

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, Franklin Court, 1099 14th Street, N.W., Room 11613, Washington, D.C. 20570-0001. This request must be received by the Board in Washington by **May 19, 1999**.

Dated May 5, 1999

at Philadelphia, PA

/s/ Dorothy L. Moore-Duncan
DOROTHY L. MOORE-DUNCAN
Regional Director, Region Four

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